

AKIN, GUMP, STRAUSS, HAUER & FELD, L.L.P.

ATTORNEYS AT LAW

A REGISTERED LIMITED LIABILITY PARTNERSHIP
INCLUDING PROFESSIONAL CORPORATIONS

1333 NEW HAMPSHIRE AVENUE, N.W.

SUITE 400

WASHINGTON, D.C. 20036

(202) 887-4000

FAX (202) 887-4288

WRITER'S DIRECT DIAL NUMBER (202) 887-4011

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August 22, 1997

BY HAND DELIVERY

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

Re: Supplemental Comments on Digital Television
MM Docket No. 87-268

Dear Mr. Caton:

Enclosed for filing on behalf of HMI Broadcasting Corporation are an original and four (4) copies of Supplemental Comments on the Fifth Report and Order and the Sixth Report and Order adopted by the Federal Communications Commission, in the above-referenced rulemaking proceeding. Please direct any questions concerning this matter to the undersigned.

Very truly yours,



Tom W. Davidson, P.C.

Enclosures

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Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service

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) MM Docket No. 87-268

**SUPPLEMENTAL COMMENTS TO PETITION FOR RECONSIDERATION
OF THE FIFTH REPORT AND ORDER AND SIXTH REPORT AND ORDER**

HMI Broadcasting Corporation and its wholly owned broadcasting subsidiaries ("Heritage"),¹ by its attorneys, hereby submits these Supplemental Comments in the Fifth Report & Order and Sixth Report & Order adopted by the Federal Communications Commission ("FCC" or "Commission") in the above-captioned rulemaking proceeding.² These comments are submitted in accordance with the Commission's Order, DA-1377, released on July 2, 1997, which permits the filing of supplemental comments in this proceeding.

¹ Through its subsidiaries, Heritage owns and operates the following television stations: Station WEAR-TV, Pensacola, Florida; WPTZ(TV), North Pole, New York; Station WCHS-TV, Charleston, West Virginia; Station WNNE-TV, Hartford, Vermont; and Station KOKH-TV, Oklahoma City, Oklahoma. Heritage, through wholly owned subsidiaries, also has entered into time brokerage agreements with Champlain Valley Telecasting, Inc., permittee of Station WFFF(TV), Channel 44, Burlington, Vermont and Television Fit for Life, Inc., licensee of Station WFGX(TV), Channel 35, Fort Walton Beach, Florida. Pursuant to prior FCC consent, control of Heritage is held by William G. Evans, an independent trustee.

² Advanced Television Systems and Their Impact Upon The Existing Television Broadcast Service, Fifth Report & Order, MM Docket No. 87-268, FCC 97-115 (released April 21, 1997); and Advanced Television Systems and Their Impact Upon The Existing Television Broadcasting Service, Sixth Report & Order, MM Docket No. 87-268, FCC 97-115 (released April 21, 1997)("Sixth Report & Order").

I. INTRODUCTION

The Sixth Report & Order instructed television stations to use the methodology described in OET Bulletin No. 69 to calculate and evaluate television service coverage and interference levels between stations under the Commission's recently adopted digital television ("DTV") rules. However, since the bulletin was not released until July 2, 1997, several weeks after the filing deadline for petitions for reconsideration, television stations did not have the information necessary to fully evaluate or analyze service coverage and potential interference problems that would arise from the digital channel assignments listed in the Sixth Report & Order's Table of Allotments.

Due to the delayed release of this bulletin, the Commission gave parties requesting reconsideration of individual DTV channel allotments an additional 45 days in which to submit supplemental information relating to their petitions.³ After evaluating its channel allotments under the methodology outlined in OET Bulletin No. 69, Heritage respectfully requests that the Commission change the channel allotment for WPTZ(TV), North Pole, New York from DTV channel 14 to DTV channel 19, and the channel allotment for WCHS-TV, Charleston, West Virginia from DTV channel 55 to DTV channel 41.

II. DISCUSSION

A. Station WPTZ(TV)

Television station WPTZ(TV) currently operates on channel 5 in North Pole, New York. The Sixth Report & Order allocates DTV channel 14 to Station WPTZ(TV). After evaluating test data of DTV signal behavior in circuits typically found in UHF broadcast final

³ Heritage Media Corporation, the parent of Heritage prior to August 22, 1997, filed comments in this rulemaking docket on July 18, 1997, on behalf of Stations WPTZ(TV) and WCHS-TV. Since Heritage had not had an opportunity to evaluate its DTV channel under the OET methodology at that time, it stated that it would file such comments at a later time.

amplifiers, Heritage has serious questions about the ability of Station WPTZ(TV) to transmit and maintain a DTV signal on channel 14 within the proposed emission mask.⁴

Frequencies adjacent to channel 14 are to be shared with land mobile facilities. Any interference to such facilities that is caused (or alleged to be caused) by Station WPTZ(TV) could force the station to operate at reduced power,⁵ thereby diminishing its service area and the resulting level of programming available to the public.⁶ For example, the television station assigned to NTSC channel 14 in the Washington metropolitan area has been forced to operate at severely reduced power due to allegations of interference with adjacent public safety land mobile frequencies. Based on an engineering analysis conducted by Heritage, there is a real possibility that Station WPTZ(TV)'s operation on DTV channel 14 at fully authorized power levels could interfere with land mobile operations in this same manner.

The Sixth Report & Order allocated DTV channels using a "service replication/maximization" concept which was designed to permit "all existing broadcasters to provide DTV service to a geographic area that is comparable to their existing NTSC service area."⁷ A DTV allocation study for Station WPTZ(TV) which used the methodology outlined in the OET Bulletin establishes that Station WPTZ(TV) could better replicate its

⁴ See Engineering Statement of Cohen, Dippell and Everist, P.C., attached hereto as Exhibit A.

⁵ Paragraph 164 of the Sixth Report & Order states that "it will be the initial responsibility of the DTV licensee to protect against or eliminate harmful interference to land mobile services that have commenced operations and that are operating in accordance with our rules at the time the DTV licensee goes on the air."

⁶ See Exhibit A.

⁷ Sixth Report & Order at ¶ 12.

NTSC service area if it received a DTV allocation on channel 19.⁸ This allocation would replicate the service area of Station WPTZ(TV) to a greater extent than the current channel 14 DTV allocation and would avoid potential interference with adjacent land mobile operations. The channel switch would not create impermissible interference to nearby television stations. Thus, the instant proposal would satisfy the Commission's stated goals by maximizing the Station's service area thereby ensuring continued service to Station WPTZ(TV)'s established viewing audience.

B. Station WCHS-TV

Television Station WCHS-TV currently operates on channel 8 in Charleston, West Virginia. The Sixth Report & Order allocates DTV channel 55 to Station WCHS-TV. Heritage requests that the Commission allocate DTV channel 41 to Station WCHS-TV instead of DTV channel 55.

In the Sixth Report & Order, the Commission designated as "core spectrum" the most suitable frequencies for DTV service, i.e., channels 2-51. Although the Commission sought to assign only DTV channels within the core spectrum,⁹ it was unable to assign all stations DTV channels within this portion of the spectrum. Station WCHS-TV was one of the stations which received a channel assignment outside the core spectrum. As a result, Station WCHS-TV will be required to move its DTV operations from channel 55 to a channel within the core spectrum when such a channel becomes available at a later date.

All television stations are required to move their operations onto the DTV channel assigned by the FCC at the time they begin to provide DTV service. Station WCHS-TV,

⁸ See Exhibit A.

⁹ Sixth Report & Order at ¶ 83.


however, is required to bear the additional financial and logistical burden of moving a second time. Thus, Station WCHS-TV's allotment on channel 55 serves as a logistical handicap for the station and may also place Station WCHS-TV at a competitive disadvantage. Based on an engineering analysis conducted by Heritage, Station WCHS-TV can operate on DTV channel 41 in compliance with all applicable FCC technical rules and in a manner which replicates its existing NTSC service area. Since it appears that a suitable DTV channel is available within the core spectrum,¹⁰ Heritage requests that the Commission change the channel allotment for Station WCHS-TV from channel 55 to channel 41.

III. CONCLUSION

In light of the foregoing, Heritage respectfully requests that the Commission change the DTV allotment for Station WPTZ(TV) from channel 14 to 19, and the DTV allotment for Station WCHS-TV from channel 55 to 41.

Respectfully submitted,

HMI BROADCASTING CORPORATION

By: 
Tom W. Davidson, P.C.
Paige S. Anderson, Esq.
Its Attorneys

AKIN, GUMP, STRAUSS, HAUER &
FELD, L.L.P.
1333 New Hampshire Avenue, N.W.
Suite 400
Washington, D.C. 20036
(202) 887-4000

Date: August 22, 1997

¹⁰ See excerpt from Alternative DTV Channels For The Continental United States, as prepared by the National Association of Broadcasters, attached hereto as Exhibit B.

EXHIBIT A

ENGINEERING STATEMENT
ON BEHALF OF
HMI BROADCASTING CORPORATION
CONCERNING SUPPLEMENT
TO PETITION FOR RECONSIDERATION
MM DOCKET NO. 87-268

AUGUST 1997

COHEN, DIPPELL AND EVERIST, P.C.
CONSULTING ENGINEERS
RADIO AND TELEVISION
WASHINGTON, D.C.

COHEN, DIPPELL AND EVERIST, P. C.

City of Washington)
) ss
District of Columbia)

Donald G. Everist, being duly sworn upon his oath, deposes and states that:

He is a graduate electrical engineer, a Registered Professional Engineer in the District of Columbia, and is President of Cohen, Dippell and Everist, P.C., Consulting Engineers, Radio - Television, with offices at 1300 L Street, N.W., Suite 1100, Washington, D.C. 20005;

That his qualifications are a matter of record in the Federal Communications Commission;


That the attached engineering report was prepared by him or under his supervision and direction and

That the facts stated herein are true of his own knowledge, except such facts as are stated to be on information and belief, and as to such facts he believes them to be true.



Donald G. Everist
District of Columbia
Professional Engineer
Registration No. 5714

Subscribed and sworn to before me this 15th day of August, 1997.



Notary Public

My Commission Expires: 7/28/98

This engineering statement has been prepared on behalf of HMI Broadcasting Corporation and provides a further review of the DTV allocation situation for WPTZ-TV, North Pole, New York. This further assessment is based upon examination of OET Bulletin No. 69 released July 2, 1997.

Television station WPTZ-TV has been assigned DTV Channel 14 in MM Docket 87-268. Examination of test data¹ of DTV signal behavior in circuits typically found in UHF broadcast final amplifiers has been made. That data raises serious questions about the ability to transmit and maintain a DTV signal within the proposed emission mask.

There is a possibility that the assigned DTV Channel 14 operation could cause interference to land-mobile facilities which would result in a reduction of ERP for Channel 14 based on prior commission practice.

A DTV allocation study has been performed and DTV Channel 19 has been found which provides WPTZ-TV a better opportunity to replicate its existing NTSC service area. Attached hereto is a tabulation of allocations for the assigned DTV channel (14) and the requested DTV Channel 19.

¹Transmitter Considerations for ATV, Harris Corp. Broadcast Division, Robert J. Plonka, November 22, 1996.

TABLE I
PROPOSED CHANNEL 19 DTV TO NTSC
ALLOCATION STUDY
AUGUST 1997

<u>Channel</u>		<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
				<u>Actual</u> km	<u>Required</u> km
N	19	WPTZ-DTV	North Pole, NY	--	--
N-5	14	None within 120 km		--	< 24.1, > 80.5
N-4	15	None within 120 km		--	< 24.1, > 80.5
N-3	16	None within 120 km		--	< 24.1, > 80.5
N-2	17	CIVM-TV	Montreal, QU	103.7	< 24.1, > 80.5
N-1	18	WNPI-TV	Norwood, NY	94.5	< 9.7, > 88.5
N	19	WCDC-TV	Adams, MA	219.0	217.3
N + 1	20	None within 120 km		--	< 9.7, > 88.5
N + 2	21	None within 120 km		--	< 24.1, > 80.5
N + 3	22	WVNY	Burlington, VT	68.4	96.6
N + 4	23	None within 120 km		--	< 24.1, > 80.5
N + 7	26	None within 120 km		--	< 24.1, > 80.5
N + 8	27	None within 120 km		--	< 24.1, > 80.5

TABLE II
DTV TO NTSC
FCC CHANNEL 14 ALLOCATION STUDY
AUGUST 1997

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
			<u>Actual</u> km	<u>Required</u> km
N	14	WPTZ-DTV North Pole, NY	--	--
N	14	None within 270 km	-	223.7
N+1	15	None within 120 km	--	<9.7,>88.5
N+2	16	None within 120 km	--	<24.1,>96.6
N+3	17	CIVM-TV Montreal, QU	103.7	<24.1,>80.5
N+4	18	WNPI-TV Norwood, NY	94.9	<24.1,>96.6
N+7	21	None within 120 km	--	<24.1,>96.6
N+8	22	WVNY Burlington, VT	68.4	<24.1,>96.6

COHEN, DIPPELL AND EVERIST, P. C.

TABLE III
DTV TO DTV
ALLOCATION STUDIES
AUGUST 1997

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
			<u>Actual</u> km	<u>Required</u> km
N	19	WPTZ-DTV North Pole, NY	--	
N-1		None within 120 km	--	< 32.2, > 88.5
N		None within 270 km	--	223.7
N + 1		None within 120 km	--	< 32.2, > 88.5

<u>Channel</u>	<u>Call</u>	<u>City/State</u>	<u>Distance</u>	
			<u>Actual</u> km	<u>Required</u> km
N	14	WPTZ-DTV North Pole, NY	--	--
N-1		Land-Mobile Below 470 MHz	--	--
N		None within 270 km	--	223.7
N + 1		None within 120 km	--	< 32.2, > 88.5

EXHIBIT B

Station at: WI MILWAUKEE
63 64 65 67 69

Existing channel 36 ATV channel 35

Station at: WI MILWAUKEE
63 64 65 67 69

Existing channel 58 ATV channel 46

Station at: WI STATE COLLEGE
2 3 5 6 8 10 11 14 19 21 22 23 26 30 31 32 33 35 36 41 42 43 44 45 50 51
61 62 64 66 67 68 69 70 71 72 73 74 75 76 77 78 79

Existing channel 36 ATV channel 47

Station at: WI MADISON
63 64 65 67 69

Existing channel 49 ATV channel 46

Station at: WI MILWAUKEE
2 11 15 16 18 20 22 27 28 29 31 32 33 35 41 42 43 44 45 49 50 51 52 53 57 58
61 62 63 64 65 66 67 68 69

Existing channel 12 ATV channel 16

Station at: WI SUPERIOR

Existing channel 6 ATV channel 15

3 12 14 15 16 18 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49 50 51 52 53 54
55 56 57 58 59 60 61 62 63 64 65 66 67 68 69

Station at: WI SUPERIOR

Existing channel 14 ATV channel 31

13 15 16 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WI MADISON

Existing channel 7 ATV channel 40

6 22 27 31 32 33 43 44 45 46 47 48 49 50 51 52 53 54 55 56 57 58 59

Station at: WI MADISON

Existing channel 9 ATV channel 29

6 10 12 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WI MADISON

Existing channel 30 ATV channel 34

6 10 12 15 17 18 19 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WI MILWAUKEE

Existing channel 35 ATV channel 8

6 10 17 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV HUNTSVILLE

Existing channel 6 ATV channel 46

8 16 20 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48

Station at: WV HUNTSVILLE

Existing channel 40 ATV channel 14

9 16 20 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48

Station at: WV CHARLESTON

Existing channel 8 ATV channel 55

7 16 21 24 27 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV CHARLESTON

Existing channel 11 ATV channel 19

10 16 18 21 24 27 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV CHARLESTON

Existing channel 20 ATV channel 39

16 21 24 27 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV CHARLESTON

Existing channel 12 ATV channel 52

3 10 17 21 24 27 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV CHARLESTON

Existing channel 46 ATV channel 20

3 10 17 21 24 27 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV CHARLESTON

Existing channel 9 ATV channel 53

2 12 15 20 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV HUNTSVILLE

Existing channel 5 ATV channel 23

2 5 6 14 16 17 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV HUNTSVILLE

Existing channel 13 ATV channel 54

5 6 14 16 17 21 22 23 24 25 26 27 28 29 30 31 32 33 34 35 36 37 38 39 40 41 42 43 44 45 46 47 48 49

Station at: WV HUNTSVILLE

Existing channel 11 ATV channel 34

CERTIFICATE OF SERVICE

I, Annamarie Valenti, an employee of Akin, Gump, Strauss, Hauer & Feld, L.L.P., certify that a copy of the foregoing Supplemental Comments to Petition for Reconsideration of the Fifth Report and Order and Sixth Report and Order was sent via First Class U.S. mail, postage prepaid, on this 22nd day of August, 1997 to the following parties:

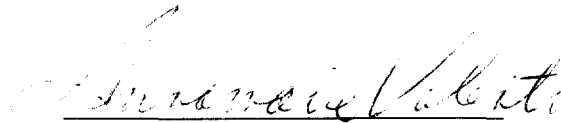
William R. Richardson, Jr., Esq.
Michael A. McKenzie, Esq.
Wilmer, Cutler & Pickering
2445 M Street, N.W.
Washington, D.C. 20037

Richard R. Zaragoza, Esq.
Fisher Wayland Cooper Leader & Zaragoza, L.L.P.
2001 Pennsylvania Avenue, N.W.
Suite 400
Washington, D.C. 20006-1851

Todd D. Gray, Esq.
Margaret L. Miller, Esq.
Candace W. Clay, Esq.
Dow, Lohnes & Albertson, PLLC
1200 New Hampshire Avenue, N.W.
Suite 800
Washington, D.C. 20036-6802

Colby M. May, Esq.
1000 Thomas Jefferson Street, N.W.
Suite 609
Washington, D.C. 20007

John R. Wilner, Esq.
Edward S. O'Neill, Esq.
Bryan Cave LLP
700 Thirteenth Street, N.W.
Washington, D.C. 20005


Annamarie Valenti